



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Arnold
Schwarzenegger
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

September 21, 2009

Certified Mail – Return Receipt Requested
Article Number: 7007 0710 0000 5763 4731

In reply refer to:
732569;jebesen

Mr. Sandor Halvax
BAE Systems San Diego Ship Repair Inc.
Foot of Sampson Street
San Diego, CA 92170-3308

Dear Mr. Halvax:

SUBJECT: Action on Request for Clean Water Act Section 401 Water Quality Certification for BAE Systems Pier 3 Dolphin Project, 08C-098

Enclosed find Clean Water Act Section 401 Water Quality Certification (Certification) with acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017 DWQ for Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have received State Water Quality Certification for the BAE Systems Pier 3 Dolphin Project. A description of the project and location can be found in the project information sheet and on location and site maps compiled by the California Regional Water Quality Control Board, San Diego Region (Regional Board), which are included as Attachments 1 through 3.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the Regional Board including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

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Sandor Halvax
BAE Systems San Diego Ship Repair Inc.
401 Certification 08C-098

- 2 -

September 21, 2009

In the subject line of any response, please include the requested "In reply refer to:" information located in the heading of this letter. If you have any questions regarding this notification, please contact Ms. Jody Ebsen directly at 858-636-3146 or by email via jebesen@waterboards.ca.gov.

Respectfully,



JOHN H. ROBERTUS
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. 08C-098 for BAE Systems Pier 3 Dolphin Project, with 3 attachments

cc: Refer to Attachment 2 of Certification for Distribution List.

File No.	08C-098
WDID:	9 000001888
<i>CIWQS</i>	
Reg. Measure ID:	360177
Place ID:	732569
Party ID:	40631
Person ID:	495949



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Action on Request for
Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials

PROJECT: BAE Systems Pier 3 Dolphin Project,
Certification No.08C-098, WDID 9000001888

APPLICANT: Mr. Sandor Halvax
BAE Systems San Diego Ship Repair, Inc
Foot of Sampson Street
San Diego, CA 92170-3308

CIWQS Reg. Meas. ID: 360177 Place ID: 732569 Party ID: 40631

ACTION:

<input checked="" type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

PROJECT DESCRIPTION:

The project is to install a mooring dolphin to enhance mooring capacity at the end of Pier 3 on the BAE Systems ship repair facility in San Diego Bay, San Diego. Construction of the dolphin includes installation of 8 hexagonal bearing piles, 16 H-piles, timber whalers, rubber fender spacers and a 16'x20' concrete deck.

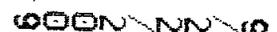
STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials (Action 3).

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.
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2. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

ADDITIONAL CONDITIONS:

In addition to the three standard conditions, BAE Systems San Diego Ship Repair Inc., (BAE Systems SDSR) must satisfy the following:

A. GENERAL CONDITIONS:

1. This certification expires five years from the date of issuance.
2. BAE Systems SDSR must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (Regional Board), to support this 401 Water Quality Certification (Certification) and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the Regional Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.
3. During construction, BAE Systems SDSR must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.
4. BAE Systems SDSR must permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
 - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 - b. Access to copy any records required to be kept under the terms and conditions of this Certification.
 - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 - d. Sampling of any discharge or surface water covered by this Order.

5. BAE Systems SDSR must notify the Regional Board within 24 hours of any unauthorized discharge, including hazardous or toxic materials, to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practice (BMPs) or other measures that will be implemented to prevent future discharges.
6. BAE Systems SDSR must, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the U.S. and/or State.
7. This Certification is not transferable to any person except after notice to the Executive Officer of the Regional Board. BAE Systems SDSR must also notify the Regional Board of any change in ownership of the project area. Notification must include, but not be limited to, a statement that the property owner has provided the purchaser or transferee with a copy of the Section 401 Water Quality Certification and that the purchaser or transferee understands the Certification requirements and must implement them. If the property is sold, the seller and purchaser must sign and date the notification. If the Certification is transferred, the Certification holder and transferee must sign and date the notification. The notification for transfer of mitigation responsibility shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of the Certification. Notification must be provided within **10 days** of the sale and/or transfer of the property.
8. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
9. In response to a suspected violation of any condition of this Certification, the Regional Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

10. In response to any violation of the conditions of this Certification, the Regional Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.
11. BAE Systems SDSR and successor owners must submit annual progressive reports to the Regional Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion.

B. PROJECT CONDITIONS:

1. Prior to the start of the project, and annually thereafter, BAE Systems SDSR must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and BMP implementation and maintenance.
2. BAE Systems SDSR must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, Statewide General Waste Discharge Requirements for discharges of dredged or fill material that have received State Water Quality Certification. These General Waste Discharge Requirements are accessible at:
http://www.waterboards.ca.gov/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
3. BAE Systems SDSR must notify the Regional Board in writing at least 5 days prior to the actual commencement of dredge, fill, and discharge activities.
4. BAE Systems SDSR must employ effective best management practices as proposed.
5. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the Regional Board pursuant to CWC § 13260.
6. All debris generated from this project shall be prevented from entering San Diego Bay. Any debris discharged into the Bay shall be collected and removed from the bay and disposed of properly.
7. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.

C. BAY PHOTO DOCUMENTATION PROCEDURE

1. BAE Systems SDSR must conduct photo documentation of the project site, including all areas of impact, prior to, during and after project construction. The photo documentation must be included in final report.

D. REPORTING:

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
2. All reports and information submitted to the Regional Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.
3. BAE Systems SDSR must submit a report to the Regional Board within 30 days of completion of the project. The report should include as-built drawings no bigger than 11" x 17" and the photo documentation of the completed project.
4. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:
 - a. For a corporation, by a responsible corporate officer of at least the level of vice president.
 - b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
5. A duly authorized representative of a person designated in Items 4.a. through 4.c. above may sign documents if:
 - a. The authorization is made in writing by a person described in Items 4.a. through 4.c. above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the Regional Board Executive Officer.
6. All applications, reports, or information submitted to the Regional Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

7. BAE Systems SDSR must submit reports required under this Certification, or other information required by the Regional Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification; Project No. 08C-097
9174 Sky Park Court, Suite 100
San Diego, California 92123

6. Required Reports: The following list summarizes the reports, excluding spill notifications and emergency situations, required per the conditions of this Certification to be submitted to the Regional Board.

Report Topic	Certification Condition	Due Date(s)
Notification Prior to Fill	B3	At least 5 days prior to construction
Complete Report	D3	Within 30 days of project completion

PUBLIC NOTIFICATION OF PROJECT APPLICATION:

On January 6, 2009, receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

Jody Ebsen
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-636-3146
jebesen@waterboards.ca.gov

WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from BAE Systems Pier 3 Dolphin Project (No.08C-98) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017 DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the Regional Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Regional Board's Water Quality Control Plan (Basin Plan).



JOHN H. ROBERTUS
Executive Officer
Regional Water Quality Control Board

21 Sept 2009
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location and Site Maps

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Mr. Sandor Halvax
✓ BAE Systems San Diego Ship Repair Inc.
Foot of Sampson Street
San Diego, CA 92170-3308
Telephone: 619-238-1000 x 2060
Facsimile: 619-595-0459
Email: sandor.halvax@baesystems.com

Project Name: ✓ BAE Systems Pier 3 Dolphin Project

Project Location: ✓ BAE Systems San Diego Ship Repair Inc., at the foot of Sampson Street, San Diego. Pier 3 is on the south west side of the facility.
Latitude: 32° 41' 23.0" N Longitude: 117°0' 42.3" W

Type of Project: ✓ Installation of a mooring dolphin.

Need for Project: ✓ Improve the existing capability and safety for mooring large commercial and U.S. Navy ships.

Project Description: ✓ Installation of a mooring dolphin off the end of Pier 3 will include 8 hexagonal bearing piles, 16 H-piles, timber whalers, rubber fender spacers and a 16'x20' concrete deck.

Federal Agency/Permit: ✓ U.S. Army Corps of Engineers §404, NWP No. 25, Robert Smith

Other Required Regulatory Approvals: ✓ Port of San Diego, Coastal Development Permit, Anna Buzaitis

California Environmental Quality Act (CEQA) Compliance: CEQA Determination, Port of San Diego, April 8, 2009, Categorically Exempt, sections 15310 (class 1) and 15302 (class 2)

Receiving Water: ✓ San Diego Bay

Affected Waters of the United States: ✓ Ocean

Dredge Volume: ✓ N/A

Related Projects Implemented/to be Implemented by the Applicant(s): ✓ Installation of mooring fenders on Pier 3.

Compensatory Mitigation: ✓ Permanent impacts are less than significant, therefore no compensatory mitigation is proposed. Minor localized temporary impacts from increased turbidity resulting from the projects may occur.

Best Management
Practices (BMPs):

✓ BAE Systems SDSR procedures for BMP 40 as proposed.

Public Notice:

✓ On January 6, 2009, receipt of the project application was posted on the Regional Board web site to serve as appropriate notification to the public.

Fees:

✓ Total Due: \$640.00
Total Paid: \$640.00 (check No.678948)

CIWQS:

Regulatory Measure ID: 360177
Place ID: 732569
Party ID: 40631

**ATTACHMENT 2
DISTRIBUTION LIST**

Mr. Robert Smith
U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
6010 Hidden Valley Rd, Ste 105
Carlsbad, California 92011

Cc via email:

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

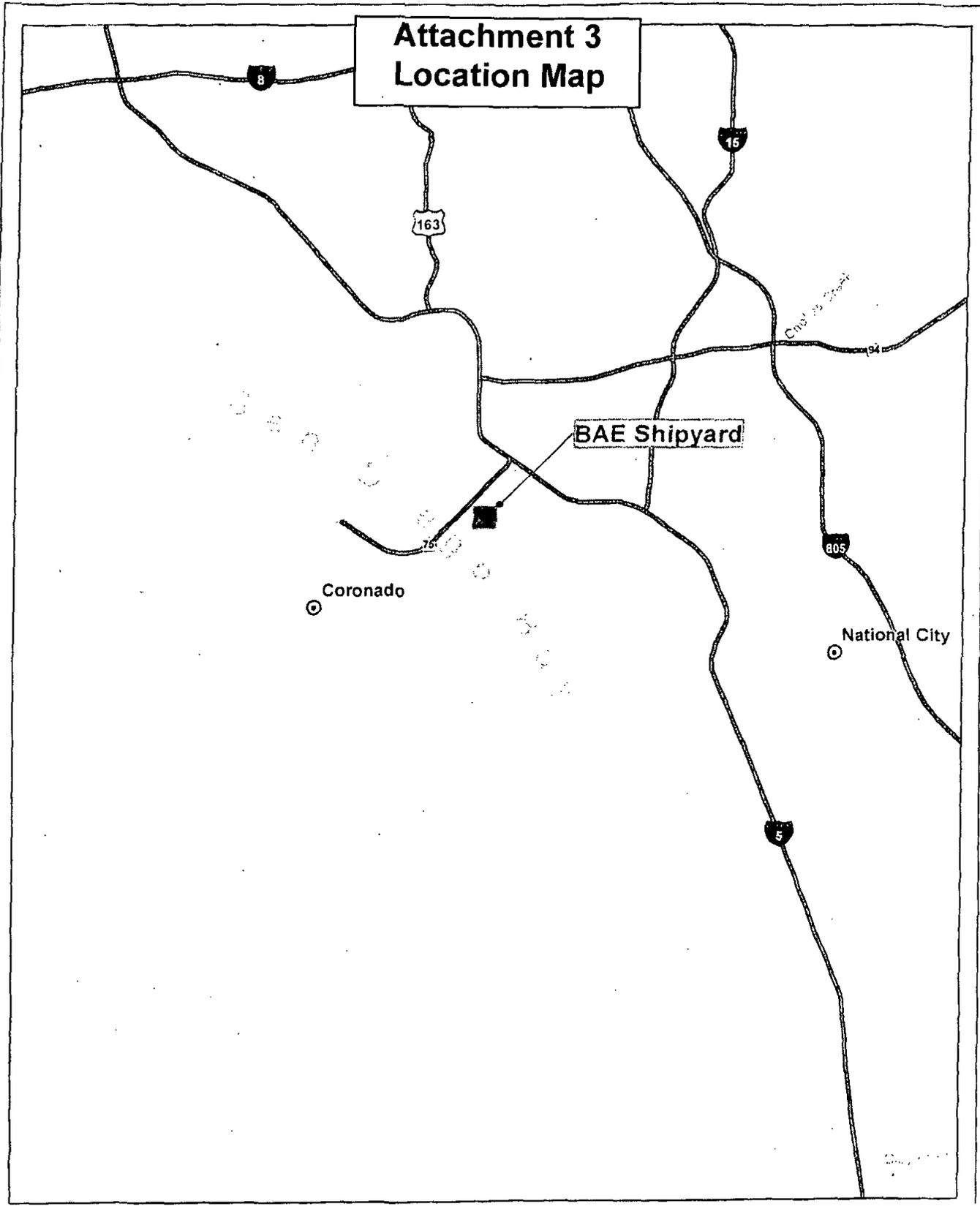
U.S. Environmental Protection Agency, Region 9
Wetlands Regulatory Office
R9-WTR8-Mailbox@epa.gov

Kathleen Brubaker
U.S. Department of the Interior
Fish and Wildlife Service
kathleen_brubaker@fws.gov

David Zoutendyk
U.S. Department of the Interior
Fish and Wildlife Service
david_zoutendyk@fws.gov

**ATTACHMENT 3
LOCATION AND SITE MAPS**

Attachment 3 Location Map

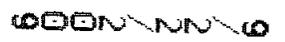


c:\s08\aquatics\BAE_Shipyard_Pier3\mxd\regional_location_dolphins.mxd Date: 11/25/2008

FIGURE
1



Regional Project Location
BAE Systems Shipyard - Proposed Pier 3 Mooring Dolphin



Attachment 3 Site Map

Figure 5 – Aerial facility photo showing location of proposed mooring dolphin.
Project: BAE Systems Pier 3 Dolphin
Applicant: BAE Systems San Diego Ship Repair Inc. (SDSR)
Type of Illustration: Vicinity Map



Proposed Location of
Pier 3 Mooring Dolphin

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee X</p> <p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p style="text-align: center;">SANDOR HALVAX BAE Systems SDSR Foot of Sampson St SAN DIEGO CA 92170-3308</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (<i>Extra Fee</i>) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p style="text-align: center;">7007 0710 0000 5763 4731</p>

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS. FOLD AT DOTTED LINE.
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City, State, ZIP+4 SANDIEGO CA 92170-3308											
PS Form 3800, August 2006	See Reverse for Instructions										